

FOR UTILITY/DESIGN  
CIP/PCT NATIONAL/PLANT  
ORIGINAL/SUBSTITUTE/SUPPLEMENTAL  
DECLARATIONS

RULE 63 (37 C.F.R.)  
DECLARATION AND POWER OF ATTORNEY  
FOR PATENT APPLICATION  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PW  
FORM

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name, and I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the INVENTION ENTITLED MASK WITH GUSSETT

the specification of which (CHECK applicable BOX(ES))

X A.  is attached hereto.

BOX(ES) → B.  was filed on June 21, 2001 as U.S. Application No. 09/885,445

→ C.  was filed as PCT International Application No. PCT/ / on

and (if applicable to U.S. or PCT application) was amended on

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose all information known to me to be material to patentability as defined in 37 C.F.R. 1.56. Except as noted below, I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT International Application which designated at least one other country than the United States, listed below and have also identified below any foreign application for patent or inventor's certificate, or PCT International Application, filed by me or my assignee disclosing the subject matter claimed in this application and having a filing date (1) before that of the application on which priority is claimed, or (2) if no priority claimed, before the filing date of this application:

PRIOR FOREIGN APPLICATION(S) Number	Country	Day/MONTH/Year Filed	Date first Laid-open or Published	Date Patented or Granted	Priority NOT Claimed
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If more prior foreign applications, X box at bottom and continue on attached page.

Except as noted below, I hereby claim domestic priority benefit under 35 U.S.C. 119(e) or 120 and/or 365(c) of the indicated United States applications listed below and PCT international applications listed above or below and, if this is a continuation-in-part (CIP) application, insofar as the subject matter disclosed and claimed in this application is in addition to that disclosed in such prior applications, I acknowledge the duty to disclose all information known to me to be material to patentability as defined in 37 C.F.R. 1.56 which became available between the filing date of each such prior application and the national or PCT international filing date of this application:

PRIOR U.S. PROVISIONAL, NONPROVISIONAL AND/OR PCT APPLICATION(S) Application No. (series code/serial no.)	Day/MONTH/Year Filed	Status	Priority NOT Claimed
60/213,251	22/June/2000	pending	
60/219,618	21/July/2000	pending	
60/293,992	30/May/2001	pending	

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

And I hereby appoint Pillsbury Winthrop LLP, Intellectual Property Group, telephone number (202) 861-3000 (to whom all communications are to be directed), and persons of that firm who are associated with USPTO Customer No. 909 (see below label) individually and collectively my attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith and with the resulting patent, and I hereby authorize them to delete from that Customer No. names of persons no longer with their firm, to add new persons of their Firm to that Customer No., and to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/ organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct the above Firm and/or an attorney of that Firm in writing to the contrary.

\*00909\*

00909-

USE ONLY FOR  
PILLSBURY WINTHROP

(1) INVENTOR'S SIGNATURE:

Date: October 2nd, 2001

Name	Robert	H.	FRATER
First	Middle Initial	Family Name	
Residence	Lindfield	Australia	Australia
City	State/Foreign Country		Country of Citizenship
Mailing Address	21a Napier Street, Lindfield, New South Wales 2070, Australia		
(include Zip Code)			

(2) INVENTOR'S SIGNATURE:

Date: 3rd October 2002

Name	Joanne	DREW	
First	Middle Initial	Family Name	
Residence	Balgowlah	Australia	Great Britain
City	State/Foreign Country		Country of Citizenship
Mailing Address	19 White Street, Balgowlah, New South Wales 2093, Australia		
(include Zip Code)	UNIT 2, NO: BEATTY STREET, BALGOWLAH - NEW SOUTH WALES 2093 AUSTRALIA.		

FOR ADDITIONAL INVENTORS see attached page.

See additional foreign priorities on attached page (incorporated herein by reference).

Atty. Dkt. No. P279185

(M#)

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## DECLARATION AND POWER OF ATTORNEY

(continued)

ADDITIONAL INVENTORS:(3) INVENTOR'S SIGNATURE: 

Dat : 4 October 2001

	Michael	K.	GUNARATNAM
	First	Middle Initial	Family Name
Residence	Marsfield	Australia	Australia
	City	State/Foreign Country	Country of Citizenship
Mailing Address (Include Zip Code)	3 Keiley Street, Marsfield, New South Wales 2122, Australia		

**Rule 56(a) & (b) = 37 C.F.R. 1.56(a) & (b)**  
**PATENT AND TRADEMARK CASES - RULES OF PRACTICE**  
**DUTY OF DISCLOSURE**

- (a) ...Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the [Patent and Trademark] Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability... (b) information is material to patentability when it is not cumulative and (1) It also establishes by itself, or in combination with other information, a prima facie case of unpatentability of a claim or (2) refutes, or is inconsistent with, a position the applicant takes in: (i) Opposing an argument of unpatentability relied on by the Office, or (ii) Asserting an argument of patentability

**PATENT LAWS 35 U.S.C.****§102. Conditions for patentability; novelty and loss of right to patent**

A person shall be entitled to a patent unless--

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent or
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or
- (c) he has abandoned the invention, or
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months\* before the filing of the application in the United States, or
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent, or
- (f) he did not himself invent the subject matter sought to be patented, or
- (g) before the applicant's invention thereof the invention was made in this country by another who had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

**§103. Condition for patentability; non-obvious subject matter**

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made....
- (c) Subject matter developed by another person, which qualified as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

\* Six months for Design Applications (35 U.S.C. 172).

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

FRATER et al

Atty. Ref.: 4398-199

Serial No. 10/322,578

Group: 3761

Filed: December 19, 2002

Examiner: Aaron J. Lewis

For: MASK WITH GUSSET

\* \* \* \* \*

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

**EXCLUSIVE SUBSTITUTE POWER OF ATTORNEY  
AND EXCLUSIVE PROSECUTION HEREAFTER BY  
ASSIGNEE UNDER 37 C.F.R. §§ 1.36, 3.71 AND 3.73**

ResMed Limited, being the owner of all right, title and interest in the above-identified patent application, hereby revokes all previous powers of attorney in this case, if any, and hereby appoints the attorneys of **Customer Number 23117** individually and collectively its attorneys to prosecute this application and to transact all business in the Patent and Trademark Office in connection therewith, and with the resulting patent.

ResMed Limited also authorizes Nixon & Vanderhye to act and rely solely on instructions communicated from the person, attorney, firm or other organization sending instructions to Nixon & Vanderhye on behalf of the owner.

**Certificate Under 37 C.F.R. §3.73(b)**

ResMed Limited, a corporation having a place of business at 97 Waterloo Road, North Ryde, New South Wales, Australia 2113 states that it is the assignee of the entire right, title and interest in the patent application identified above by virtue of an assignment from the inventors to the aforesaid assignee, a copy of the assignment being attached and/or recorded at the United States Patent Office on December 19, 2002 at reel 013597, frame 0556.

The undersigned (whose title is typed below) is empowered to sign this statement on behalf of ResMed Limited.

ResMed Limited

8 August 2003

Date

By:

Paul Green

Name: Paul A. Green  
Title: Patents Officer